IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

-

WRIT PETITION NO : 13523 of 2005

Between:

K. Ravi Kumar, C/o. K. Police,
100 Buildings, S.C.No.9288, Kakinada, E.G.District.

..... PETITIONER

AND

1 Assistant Divisional Engineer, Operation/A.P. Transco, APEPDC Ltd., Kakinada Town, Kakinada, E.G.District.
2 The Divisional Engineer, Operation, Kakinada, E.G.District.
3 The Assistant Accounts Officer, Electricity Revenue Office, Kakinada, E.G.District.
4 The Divisional Engineer/Assessments/AP TRANSCO, Rajahmundry, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one int he nature of writ of Mandamus declaring the Notice Lr.No.ADE/O/T/KDA/Sub. Er./D.No.192/05 dt. 30.4.2005 as illegal, arbitrary, violative of Articles, 14, 19 (1) (g) and 21 of the constitution of India and violative of the principles of natural justice and consequently direct the respondent herein to restore the electricity supply of service connection No. S.C.No. 9288 pertaining to 100 Buildings, Kakinada, E.G.District of the petitioner herein.

Counsel for the Petitioner: MR.A.V.SESHA SAI

Counsel for the Respondents: MR. V.AJAYA KUMAR

The Court made the following:

ORAL ORDER:

Heard the learned counsel for the petitioner and Sri V.Ajay Kumar, learned Standing Counsel for the respondents.

2. This Writ Petition is filed by the petitioner aggrieved by the provisional assessment notice dated 30.4.2005 issued by the 2nd respondent estimating the value of the energy pilfered at Rs.16,986/- and in directing the petitioner to pay half of the estimated value, i.e., a sum of Rs.8,493/-. It is the case of the petitioner that the Electricity Act, 2003 neither empowers the respondents to assess any amount without notice nor are the respondents entitled to disconnect power supply based on provisional assessment order.

3. Both parties agree that the matter is covered by a Judgment of this Court in Writ Petition No.2356 of 2005, dated 11.2.2005, wherein the learned single Judge, relying on an earlier order of the Division Bench of this Court in Writ Appeal Nos.452 and 477 of 2004, dated 11.3.2004, held that a consumer cannot be required to make any payment on the strength of an order of provisional assessment.

4. In the result, the Writ Petition is allowed in terms of the aforesaid judgments and the respondents are directed not to disconnect and to restore power supply in case it has already been disconnected, without insisting on payment of any amount on the strength of the provisional assessment order. The respondents are further directed to continue power supply subject to payment of consumption charges by the petitioner. There shall be no order as to costs.

SD/- T. PADMAVATHI

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Assistant Divisional Engineer, Operation/A.P. Transco, APEPDC Ltd., Kakinada
Town, Kakinada, E.G.District.
2 The Divisional Engineer, Operation, Kakinada, E.G.District.
3 The Assistant Accounts Officer, Electricity Revenue Office, Kakinada, E.G.District.
4 The Divisional Engineer/Assessments/AP TRANSCO, Rajahmundry, E.G.District.

5 2 CD copies

6 One CC to Mr. A.V. Sesha Sai, Advocate. (OPUC).

SSL

High Court

DATED:24/06/2005

ORDER

WP.NO.13523 OF 2005

ALLOWING NO COSTS.

SSL